

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Paul Mangan,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-77-1264
Parcel No. 100/05774-002-000

On April 22, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Paul Mangan, requested a hearing and submitted evidence in support of his petition. He was self-represented at the hearing. The Board of Review designated Assistant County Attorney, Ralph E. Marasco, Jr., as its legal representative. It also submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Paul Mangan, owner of property located at 3846 Lower Beaver Road, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing his property. According to the property record card, the subject property consists of a one-story frame dwelling built in 1951 having 1224 total square feet of living area, an 888 square-foot unfinished basement. It also has a detached two-car garage built in 1986. The dwelling is situated on a 0.273 acre site and has a 4+5 quality grade.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$140,700, representing \$32,000 in land value and \$108,700 in building value.

Mangan protested to the Board of Review on the ground the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b), and there was an error in the assessment

under section 441.37(1)(d). He claimed that \$90,000; allocated \$32,000 to land and \$58,000 to the dwelling was the actual value and a fair assessment of the property. The Board of Review granted the protest, in part. The assessed value was changed to \$134,600, allocated \$32,000 to land value and \$102,600 to dwelling value. The protest was granted "because the market data did not support the assessment."

Mangan filed his appeal with this Board and marked the ground that the property was assessed for more than authorized by law under section 441.37(1)(b).

Mangan testified his property assessment has increased 75% cumulatively between 2001 and 2009. He reports that his dwelling only has one useable bedroom because access to it is through another room, which he uses a den. In his opinion, the den is not usable as a second bedroom due to the access issue. Mangan declined an interior inspection by the Board of Review to verify the bedroom layout. He testified his house is not in above-normal condition as reported in the county records. He indicated negative factors reduce the value of his home including high traffic count and noise, and a bus stop nearby. Mangan also disputed the enclosed porch listed on his property record card.

Mangan submitted a refinancing appraisal completed by appraiser Jeremy Anania for Eagle Nationwide Mortgage. It had an effective date of January 19, 2009, and concluded a value of \$90,000. Mangan believes this accurately reflects the value of his property.

William Pruett of Rally Appraisal, LLC, West Des Moines, completed a review appraisal of the property and testified on behalf of the Board of Review. Pruett, an appraiser with twelve years of experience, first reviewed the Anania appraisal. He drove by the subject property and the comparable properties used, examined public record data on the properties, and reviewed the listing and sales data. In his opinion, the five sales used in Anania's appraisal were poor comparables, and in his opinion, the errors in the appraisal made it unreliable. For example, the appraisal was signed and dated January 29,

2009, yet used a sale not occurring until March 19, 2009; one of the properties was also a 24-hour sale, had four bedrooms and no adjustments; and a third sale was also substantially smaller. We agree. We also note the Anania appraisal reported adjusted comparable sales prices from \$95.50 to \$136.74 per square foot with a median of \$136.14 per square foot. Yet his indicated value for the subject property is substantially less per square foot (\$73.53), and it is newer, and has a larger lot, garage, and basement than the comparables he presented.

Pruett surveyed listings and sales in the area similar to the subject and determined that properties ranged from \$105,000 investor focused, fixer-uppers, and distressed properties to top-of-the-range \$145,000 fully rehabilitated properties. He indicated the enclosed porch listed on the property record card probably referred to the 80 square-foot mudroom addition on the Mangan dwelling clearly visible on the photograph. Pruett completed a paired sales analysis using five comparable properties within one mile of the Mangan dwelling. He adjusted for seller concessions, location, site size and view, condition, living area, basement finish, and other amenities. Adjusted sales prices ranged from \$117.41 to \$133.40 per square foot with a median of \$121.50 per square foot. He opined a value of \$135,000 (\$110.29 per square foot) for the subject property, \$45,000 higher than the Anania value (\$73.53 per square foot). Pruett testified that he did not conduct a paired-sales analysis to determine whether a one-bedroom home, as opposed to a comparable two-bedroom home, would have an impact on buyers, although no impact was evident from the research he did conduct. In his opinion, a \$3,000 to \$4,000 value differences could result from either the subjective nature of the adjustment process from appraiser to appraiser, or from the difference between a one-bedroom dwelling versus a two-bedroom dwelling. However, he testified that he cannot account for the significant difference between his value and Anania's value.

Based on testimony at hearing, even if Mangan's property is a one-bedroom dwelling, it would not equate to a \$45,000 adjustment to the assessment. It appears that Mangan's dwelling may be either

a one-bedroom with a den, or a two-bedroom with functional obsolescence due to room access issues. Even though Anania's appraisal identifies the property as a one-bedroom, the flaws in the appraisal make us skeptical of this determination and we are reluctant to adopt his valuation. Because we cannot conclusively determine which it is or an appropriate adjustment, we cannot make one.

Reviewing all the evidence, we find that substantial evidence is lacking to support Mangan's claim that his property was assessed for more than authorized by law as of January 1, 2009. Further, we find Pruett's appraisal is the most credible evidence of the fair market value of the Mangan property as of January 1, 2009 and supports the assessed value.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or

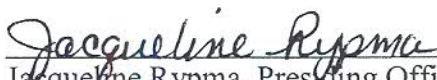
comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

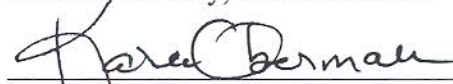
Viewing the evidence as a whole, we determine that substantial evidence is lacking to support Mangan's claim of over-assessment as of January 1, 2009. The Anania appraisal is not reliable because of its questionable comparables and adjustments (or lack thereof). The Pruett appraisal, which we find the most credible evidence of the subject property's fair market value, supports the assessment. We, therefore, affirm the Mangan property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$134,600, representing \$32,000 in land value and \$102,600 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Polk County Board of Review is affirmed.

Dated this 17 day of May 2010.


Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Member


Karen Oberman, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>7-17</u> , 201 <u>0</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>Ralph E. Marasco, Jr.</i></u> <u><i>Paul Mangan</i></u>